(4)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION NO 2223 OF 2001

PETITIONER

Jehrul Hassan,
aged about 60 years,
son of Haji Mohd, Occupation -
Business Forest Contractor,
r/o Ambikapur (C.G)

VERSUS

P. R. No. 2213101

RESPONDENTS

1. State of Chhattisgarh
through Secretary, Department
of Forest, D.K.S.Bhawan,
Mantralay Raipur

2. Conservator of Forest,
Sarguja Circle, Ambikapur

3. Divisional Forest Officer,
South Sarguja Van Mandal
Ambikapur (C.G)

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF CERTIORARI MANDAMUS, PROHIBITION AND FOR ANY OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS.

(100)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 2223/01 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11-09-2002 Shri Manindra Shrivastava, counsel for the petitioner. Shri Ranbir Singh, Govt. Adv. for the State. Heard. Aggrieved with the action of confiscation in terms of the Section 12 of the M.P. Kashtha Chiran (Viniyaman) Adhiniyam, 1984 [in short the Act] the petitioner had, under Sub-section [3] of the Act, preferred an appeal before the Conservator of Forest, Ambikapur. Since the appeal was not taken up for consideration for a long time, the petitioner approached the M.P. High Court by way of W.P. No.2711/1993. The said writ petition, on the formation of the State of Chhattisgarh, was transferred to this Court and the same was disposed of on 09-08-2001 by directing the Conservator of Forest to examine the entire matter on merits and pass necessary orders thereon. It is not disputed that the appeal has since been decided on 31-8-2001 and has been partly allowed. Aggrieved with the part rejection of the appeal, the petitioner has approached this Court. The contention of the learned counsel for the petitioner is that in view of the orders passed in the earlier writ petition, the respondent No.2 - Conservator of Forest, Ambikapur was obliged to decide all the issues on merits and he having failed to do so, the petitioner is entitled to approach this Court by way of this writ petition. This contention cannot be accepted. This Court had not, in the earlier writ petition, adjudicated upon the merits of the	

पीछे देखिये

(101)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	dispute. That petition was disposed of, as observed above, by directing the Appellate Authority to dispose of the appeal on its own merit. It cannot be disputed that the appeal has since being disposed of. The mere fact that some of the issues have been decided against the petitioner, or that the full relief claimed by the petitioner has not been granted does not mean that the appeal has not been disposed of on merits, as directed by this Court. That apart, sub-section (4) of the Section 12 of the Act clearly lays down that any person aggrieved by an order passed under sub-section (3) of the Act may prefer an appeal to the District Court having jurisdiction over the area in which the property has been seized. Thus the order passed by the respondent No.2 - Conservator of Forest, Ambikapur in exercise of power under sub-section (3) is clearly appealable under sub-section (4) of the Act. This statutory provision is not disputed. In the above view of the matter, the Court declines to entertain this writ petition. Accordingly, the petition is dismissed, giving liberty to the petitioner to approach the Appellate Forum under sub-section (4) of the Section 12 of the Act, if so advised. **Sd/-** **P.C.Naik** **Judge**	

Roshan

[पीछे देखिये]